

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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Raul Saldana Villanueva, *et al.*,

Plaintiffs,

—v—

179 Third Avenue Rest. Inc., *et al.*,

Defendants.

16-cv-8782 (AJN) (RWL)

ORDER ADOPTING REPORT AND  
RECOMMENDATION

ALISON J. NATHAN, District Judge:

On September 30, 2019, the Court granted Plaintiffs' motion for default judgment against Defendants 179 Third Avenue Rest. Inc. and 603 Second Ave Corp. Dkt. No. 127. The Court then referred the matter to Magistrate Judge Robert W. Lehrburger for an inquest on damages. Dkt. No. 128. On September 3, 2020, Judge Lehrburger filed a Report & Recommendation ("R & R") providing a thorough calculation of the damages owed to plaintiffs. Dkt. No. 153.

When considering the findings and recommendations of a Magistrate Judge, the Court may "accept, reject, or modify [them], in whole or in part." 28 U.S.C. § 636(b)(1). The Court must make a *de novo* determination of any portions of a magistrate's report or findings to which a party raises an objection, and reviews only for "clear error on the face of the record" when there are no timely objections to the R & R. *Banks v. Comm'r of Soc. Sec.*, No. 19-cv-929 (AJN) (SDA), 2020 WL 2765686, at \*1 (S.D.N.Y. May 27, 2020); *see also Brennan v. Colvin*, No. 13-cv-6338 (AJN), 2015 WL 1402204, at \*1 (S.D.N.Y. Mar. 25, 2015); *Hicks v. Ercole*, No. 09-cv-2531 (AJN) (MHD), 2015 WL 1266800, at \*1 (S.D.N.Y. Mar. 18, 2015); *Gomez v. Brown*, 655 F. Supp. 2d 332, 341 (S.D.N.Y. 2009). Clear error is found only when, upon review of the entire record, the Court is left with "the definite and firm conviction that a mistake has been

committed.” *Laster v. Mancini*, No. 07-CV-8265 (DAB) (MHD), 2013 WL 5405468, at \*2 (S.D.N.Y. Sept. 25, 2013) (quoting *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006)).

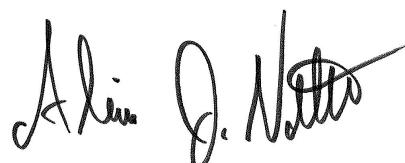
As of this date, no objections to the R & R have been filed, and the deadline for objections has long since passed. *See* R & R at 43-44. Thus, the Court reviews the R & R for clear error, and it finds none.

The Court therefore adopts the R & R in its entirety and awards Plaintiffs damages, fees, and costs in the total amount of \$1,717,215.80, in addition to pre-judgment interest on unpaid wages as determined by the Clerk of Court, on the grounds described by Judge Lehrburger and in the per-Plaintiff amounts set forth in the R & R. *See* R & R at 38-42. As directed by Judge Lehrburger, Plaintiffs’ counsel shall coordinate with the Clerk of Court to provide the requisite mid-point information to calculate the prejudgment interest for each Plaintiff. *See* R & R at 43.

The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: May 26, 2021  
New York, New York



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ALISON J. NATHAN  
United States District Judge